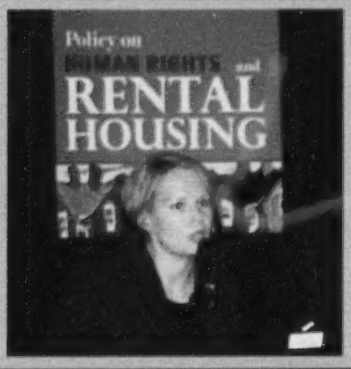
Educate Empower Act



Annual report **2009-2010**

Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

Meet our Commissioners

Barbara Hall – Appointed November 2005

Barbara Hall, Chief Commissioner of the Ontario Human Rights Commission and former Mayor of Toronto, has served for more than 40 years as a community worker, lawyer, municipal politician and champion of a grassroots approach to community-building.

Patrick Case – Guelph – Appointed September 2006

Patrick Case is the Director of the University of Guelph's Human Rights and Equity Office. A lawyer by training, his previous roles include Chair of the Canadian Race Relations Foundation and Co-Chair of the Equality Rights Panel of the Court Challenges Program.

Ruth Goba – Toronto – Appointed October 2006

Ruth Goba, a lawyer, has worked domestically and internationally on disability and women's equality rights issues. From 2007 to 2009, she was the Executive Director of the Centre for Equality Rights in Accommodation (CERA), a human rights NGO that promotes housing and other economic and social rights.

Raja Khouri – Toronto – Appointed September 2006

Raja G. Khouri is managing consultant at The Knowledge Centre and specializes in organizational development and capacity building in the non-profit sector. Raja is co-founder of the Canadian Arab-Jewish Leadership Dialogue Group. He formerly served on Ontario's Hate Crimes Community Working Group and the Equity and Inclusive Education Strategy Roundtable.

Fernand Lalonde – Gloucester – Appointed May 2005

Fernand Lalonde retired from the federal public service in 2001 after serving in many roles, including General Secretary of the National Joint Council, Executive Director of Appeals and Investigations for the Public Service Commission of Canada, and Director of Personnel Services, Parks Canada.

Julie Lee – London – Appointed September 2009

Julie Lee is a lawyer, practicing family and criminal law in St. Thomas, Ontario. Prior to her legal education she worked in the anti-violence movement as an educator, administrator and advocate. Julie's advocacy has also been directed at achieving equity and dignity for same-sex families.

Paul Lefebvre – Sudbury – Appointed September 2009

Paul Lefebvre is a partner at Weaver Simmons where he practices corporate and tax law and is also a business owner. Currently he is President of the Sudbury District Law Association, and former Board Chair of the Centre de Santé Communautaire du Grand Sudbury.

Continued on inside back cover.

Ontario

June 30, 2010

The Honourable Steve Peters
Speaker of the Legislative Assembly of Ontario
Room 180
Legislative Building
Queen's Park
Toronto, ON
M7A 1A2

Dear Mr. Speaker:

Under Section 31.6 (2) of the Ontario *Human Rights Code*, the Ontario Human Rights Commission is required to submit a report on the Commission's activities for the previous fiscal period by June 30th of each year, to be tabled in the Legislature.

In this regard, I am pleased to provide you with the Commission's Annual Report of its activities from April 1, 2009 to March 31, 2010.

Yours sincerely,

Barbara Hall, B.A, LL.B, Ph.D (hon.)
Chief Commissioner

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A message from the Chief Commissioner

Earlier this year, many Canadians were excited to witness visions of what an inclusive society could look like as we cheered our athletes and artists in the Olympic and Paralympic games. These talented young people with their differing abilities showed us many expressions of excellence in sport, art and culture.

Later in the year, Canada ratified the United Nations Convention on the Rights of Persons with Disabilities. Much more than "just another treaty," the Convention is Canada's promise to protect, promote and advance the rights of people with disabilities.

Events such as these help us to focus on the possibilities that can flow when human rights, those words in the *Human Rights Code*, are made real. They also remind us that when they are absent, opportunity is lost, and people are excluded and silenced. In Ontario today, many people still face barriers and discrimination in their homes, workplaces, places of worship, service and social settings, because of personal characteristics such as their country of origin, their sex, their disability, their religion or their skin colour.

Our work at the OHRC over the past year has focused on identifying systemic barriers, eliminating them and helping to create new processes that nurture human rights and inclusion. Examples include our work on ending discrimination in rental housing, and our new partnerships to help bring mental illness out of the shadows and remove the stereotypes and discrimination so often associated with it.

Our work can be defined by three words: educate, empower and act. We worked hard to educate Ontarians about their rights and what to do when these rights are denied. And while we were educating them, they were also educating us – both about the causes and effects of discrimination and how we could assist in eliminating it.

We worked with sectors like education, police and local government to evaluate their operations through a human rights lens and make sure they were inclusive and welcoming to all. Thus empowered, municipal leaders are taking on racism and discrimination and police services are removing bias from within their organizations. Educators are striving to meet the needs of all the children in their communities.

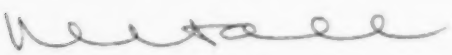
And when education and partnership hasn't been enough, we have taken other action. Examples include our intervention in the case of a woman who was ordered to remove her niqab before testifying in a sexual assault case, our work to ensure the Province of Ontario's Special Diet Program does not discriminate, and our applications to the Human Rights Tribunal of Ontario to make public transit across Ontario accessible to people with visual disabilities.

Action is not just about taking a case to a tribunal or court , sometimes it involves speaking out. There is a decline in respectful conversation in our society, especially when it comes to "tough" topics like racism, religion and how we deal with what seems to be a conflict of rights. But we must have those conversations – and the OHRC will continue to both lead them and find safe places in which they can occur.

This annual report offers a brief look at what the OHRC did in 2009/2010 to educate, empower and act. But we did not do this work alone. Effective systemic change requires that we all bring our skills and experience to the task without being diverted by silos or turf or the way things have always been done. We were lucky to find that kind of partners and we thank them and will continue to work with them.

Within the OHRC, a committed group of Commissioners are helping shape the vision of human rights in Ontario and talented staff are putting this vision into action. My thanks go to my fellow Commissioners, the staff and our partners – who together make an amazing team. It is a privilege to work with each one of them.

This report talks about our accomplishments last year but it also gives a glimpse of the work that lies ahead. It will be both a pleasure and a challenge to continue to do the work necessary in building a culture of human rights for all Ontarians.



Barbara Hall
Chief Commissioner

Bringing human rights closer to home

In today's society, people are still denied housing because of the colour of their skin, or their country of origin, or their age, or many of the other grounds of Ontario's *Human Rights Code* – the *Code*. Some people with mental health disabilities are evicted because of behaviour that is beyond their control, without landlords even attempting to accommodate them. Some housing providers don't want to rent to seniors because they think they will need to pay money to accommodate them as they age or acquire disabilities. These are just a few of the ways that people across Ontario face discrimination in housing every day.

Many groups have worked for years to eliminate this discrimination, and the OHRC is offering them a new tool to advance human rights in housing. In October 2009, we released our *Policy on Human Rights and Rental Housing*, Canada's first human rights-based look at how to find and eliminate barriers to housing.

The policy follows research and consultation with tenants, housing providers, decision-makers and other partners. It provides tools, practical scenarios and information to apply to everyday situations, so that human rights problems can be eliminated quickly or prevented from happening in the first place.

Under Ontario's *Human Rights Code*, tenants and housing providers have rights and obligations, and this policy provides the details on what these rights and obligations are and how to use them.

Reducing discrimination in housing is a strategic priority for the OHRC. This policy is part of a wider effort to break down barriers to fair rental housing. Other recent work includes:

- Building partnerships with municipalities, tenant groups, advocates and housing providers to do public education
- Working with the Ministry of Municipal Affairs and Housing on legislative and regulatory issues to improve human rights in housing
- Intervening in a case before the Ontario Municipal Board
- Meeting with and learning from individuals and groups at events across Ontario
- Working with municipalities to amend zoning by-laws that discriminate
- Working with college communities to address student housing issues.

Taking housing rights to the streets

The OHRC joined forces with the City of Toronto, the Federation of Rental-Housing Providers of Ontario, the Greater Toronto Apartment Association and the Human Rights Legal Support Centre to launch the "Housing is a human right" poster campaign. Large-format posters appeared on 120 transit shelters across Toronto during March, encouraging Toronto tenants and landlords to learn more about these rights.

The slogan "Apartment for rent – to anyone but you" and the design approach were created by a talented team of students from the Humber College Ad Centre. Thanks go to Denver Eastman, Spencer Henderson, Julia Morra and Martin Stinnisen for their attention-grabbing work.

The campaign, which reflects the principles of the City's recently-adopted *Toronto Housing Charter – Opportunity for All*, is another element

of our province-wide initiative to educate tenants and landlords about their rights and responsibilities relating to human rights and housing. Smaller versions of the poster, in both English and French are available for downloading on the OHRC website. Campaign materials can be updated to include the logos and details of other organizations or municipalities that are interested in helping the OHRC send the message that housing is a human right for all Ontarians.

Looking at student housing in Oshawa and beyond

Over the past two years, the OHRC has had many discussions with the City of Oshawa and other municipalities to express concerns about licensing and zoning by-laws that could have an adverse effect on student housing. The OHRC believes, and the *Planning Act* clearly states, that zoning should focus on planning and land-use issues, and should not be used to choose the people who will live in the housing.

When by-laws are used this way, they limit the options for people to live in the community of their choice, because they are young, or have a disability, or are on social assistance, or any of the grounds included in the *Code*. This means that university students may be denied safe, affordable housing, a prerequisite to getting the education they need to succeed.

In November 2009, the Supreme Court of Canada dismissed an application for leave to appeal by several landlords providing housing for students. In *Death v. Neighbourhoods of Windfields Limited Partnership*, the landlords challenged a Court of Appeal decision affirming that they were operating lodging houses in breach of the City of Oshawa's zoning by-law, which prohibits this type of housing in certain neighbourhoods. The Court of Appeal said that a relevant factor was how the renters related amongst themselves when deciding whether they constituted a "single housekeeping establishment." However, neither the Superior Court nor the Court of Appeal examined this issue from a human rights perspective.

The OHRC applied to intervene in the Supreme Court application because of the potential human rights impact on students and other groups protected by the *Code*. However, the Supreme Court refused to hear the appeal and did not examine the merits of the case or the human rights issues involved.

Some people have suggested that the *Death* case has laid to rest any human rights concerns about lodging houses. That is not the OHRC's interpretation. There are still unresolved questions around zoning related to lodging houses, and restricting the ability of people to share accommodation based on their relationship to one another. Municipalities should consider this when enacting or enforcing by-laws that rely on a narrow understanding of "family" to define the use, occupancy or zoning of a structure, as this could raise concerns of discrimination and lead to human rights challenges.

The OHRC continues to monitor the situation in Oshawa as the city completes a Student Housing Strategy, and will also work with other "town and gown" communities that are closely following events in Oshawa.

Taking the human rights message to the OMB

In January 2010, the Ontario Municipal Board (OMB) ruled that municipalities have to consider the needs of everyone – including people with disabilities or on social assistance – when making bylaws. Two bylaws stopped new non-profit and supportive housing from being built in the Cedar Hill neighbourhood in downtown Kitchener. The Advocacy Centre for Tenants Ontario (ACTO) and other groups objected, and the OHRC intervened and made the argument that the OMB had to apply the *Code* when considering the case.

The OMB said the City of Kitchener did not look at the impact of their actions when it decided to pass these bylaws, which negatively affected people with disabilities or on social assistance by restricting the housing options available to them.

The City of Kitchener has been sent back to the drawing board to look at this impact, and redraft the two by-laws as well as an amendment to the City's Official Plan.

This decision will have an impact on municipalities across Ontario. The OHRC wrote to municipalities to advise them of it and to encourage them to apply it to their individual operations. The letter outlined the facts of the case, and added:

> *The OMB indicated that the Code appears to prohibit by-laws and planning instruments that have discriminatory effects on groups protected by the Code. A municipality that seeks to justify a discriminatory by-law might be expected to demonstrate that the by-law was established in good faith, was reasonable, and that real and substantial efforts were made to accommodate the needs of persons who were adversely affected.*

The OHRC will continue to work with municipalities to eliminate systemic discrimination in housing.

Talking with Toronto about zoning

In late 2009, Chief Commissioner Barbara Hall appeared before the City of Toronto's Planning and Growth Management Committee to share the OHRC's comments on the city's proposed new zoning by-law. This by-law is important because it is the first harmonized zoning by-law since the City of Toronto was amalgamated, and has the potential to either create housing or barriers for many vulnerable people across Toronto.

We are concerned that the proposed by-law will not allow certain types of housing in all residential neighbourhoods. Barriers still seem to exist for crisis care shelters and residential care homes. Any decisions to exclude these uses need to be based on sound urban planning rationale, and not on negative assumptions about the people who might live there.

Another concern was that buildings must be five years old before they can be used as seniors' community homes, which means that new seniors' community homes cannot be built.

We also encouraged the city to take another look at minimum separation distances. When planning for inclusive neighbourhoods, these requirements limit the sites available for development, and force housing providers to turn away otherwise ideal housing opportunities – to the detriment of many people who are in desperate need of housing.

The OHRC will review updated versions of the by-law as they are released.

Promoting partnerships in education

In a consultation over the summer of 2009, the OHRC heard that students continued to face problems arising from school discipline policies. Parents worried that the discipline their children received did not take into account the individual circumstances of each student, and the students who needed support the most were at risk of being left behind. That's why the OHRC has worked hard to build on its partnerships in the education sector and to find new ways to bring a human rights focus to schools across Ontario.

Especially positive is the work underway to implement the Ministry of Education's Equity and Inclusive Education Strategy (Equity Strategy) in all Ontario public school boards. The OHRC gave advice on the Equity Strategy, which calls for school boards to develop and apply equity and inclusive education policies and procedures by September 2010. School boards have to look at their practices to remove systemic barriers to education and hiring, and take steps to make sure they offer a positive school climate that fosters equity, inclusive education and diversity. The end goal is for the principles of equity and inclusion to be embedded into Ontario's public schools.

But what do equity and inclusion really mean? They might mean a student with developmental disabilities learning alongside their friends in a regular classroom, instead of being set apart. They might mean adjusting exercise routines to include girls who wear hijabs, or not stereotyping students' interests and skills by assuming certain cultural groups will be good at math or basketball. Equity and inclusion involve setting up a system where all students have the opportunity to belong and to succeed.

While the Equity Strategy is being implemented, we continue to provide support to key stakeholders like the Ontario Education Services Corporation (OESC), the Ministry of Education, Inclusive Education Branch and Regional Equity and Inclusive Education Networks.

The OHRC has also provided human rights training to large groups of school boards at events organized by the Ministry of Education, the Safe School Network, regional Equity and Inclusive Education Networks.

This work will continue in 2010 and beyond. Future plans include developing an e-learning module for teachers, a policy and guidelines for "Human Rights and Student Discipline" and a barrier-review tool-kit that school boards can use. The OHRC will continue to train educators, monitor compliance with human rights settlements relating to student discipline and work with the Ministry of Education to promote collecting human rights-based data in Ontario's public schools.

Talking human rights, one school at a time

Working with educators is key to our goal of an inclusive school system for all of Ontario's children. It is equally important to educate students so they can protect their own human rights and those of their fellow students. To help meet this ongoing goal, Chief Commissioner Barbara Hall frequently talked to students across Ontario to share the human rights message and to learn first-hand of their experiences and issues. This work included visits to Dennis Franklin Cromarty High School in Thunder Bay and Holy Name Catholic High School in Windsor.

As well, the OHRC gave input and materials to EGALE Canada, an LGBT human rights organization, to support its Safe Schools initiatives and its new website for youth and educators – MyGSA.ca.

Partners, partners, partners!

Education is just one of the many areas where the OHRC has built new partnerships in the past year. Also of note is the solid working relationship between the OHRC and the Human Rights Legal Support Centre (HRLSC). The OHRC is providing training to Legal Support Centre staff on OHRC policies, and the two groups regularly share information to identify and respond to emerging human rights issues. This collaboration is helping both organizations maximize resources and human rights benefits for all Ontarians.

As well, the OHRC worked on joint projects with municipalities across the province, including the cities of Peterborough (race relations), Windsor (housing), Vaughan (race relations) and Toronto (housing, equity and inclusion).

Partnerships are important because the OHRC cannot do this work alone. It is hard and complex, and requires many to share expertise and knowledge. We want to work with many individuals and organizations, both public and private, to build a culture of human rights.

OHRC, business and community say "yes" to collecting human rights-based data

It is hard to solve problems or run a successful business or make a good policy without all of the information. Yet this happens regularly when it comes to race, disability, sex, gender identity and other grounds covered by the *Code*. In many cases, information is not collected because of fear that doing so would itself be contravening the *Code*. That's why the OHRC published a new guide called *Count me in!*, which dispels the myths and fears about collecting human rights-based data.

Launched in March 2010 with senior business and community leaders, *Count me in!* can be used in a wide variety of sectors. This 81-page guide offers a plain language, common-sense framework for collecting data in a way that can build trust and real solutions to human rights problems.

A growing number of businesses, public sector and non-profit employers are finding that collecting data plays a useful and often essential role in creating strong human rights and human resources strategies. *Count me in!* includes best practice examples of how data collection can improve internal work environments, provide better customer service, promote higher productivity, identify opportunities for growth and have a positive effect on the bottom line.

The guide also talks about how good data can help identify and verify whether problems exist, and if found, help organizations be proactive in addressing them. Good data can also help to gain trust, develop effective, respectful consultations, and gain the support of the decision-makers when creating sensitive policies, programs or initiatives.

The guide features the experiences of KPMG Canada, TD Bank Financial Group, Keewatin-Patricia District School Board, Mount Sinai Hospital, Maytree, The Toronto City Summit Alliance, Ryerson University's Diversity Institute and the University of Guelph, among others. Each of these organizations assisted the OHRC as it developed the guide.

Two organizations, KPMG Canada and TD Bank Financial Group, also served as sponsoring partners, providing financial and in-kind assistance to design, print, distribute and launch the guide. Both groups offer compelling examples of how collecting human rights-based data makes solid business sense.

Count me in! is available in a variety of formats. It's on our website too – www.ohrc.on.ca.

Continuing the dialogue on balancing competing rights

A person who is blind and uses a service dog wants to take a taxi, but the taxi driver's religious beliefs lead him to not allow dogs in his car. A marriage commissioner refuses to perform a marriage ceremony for a same-sex couple, because it would be contrary to her religious beliefs.

What do we do in cases like these, when rights related to one *Code* ground seem to conflict with those of another ground? The OHRC is doing some policy work to find answers.

In March 2010, the OHRC held a Policy Dialogue on Competing Human Rights Claims in partnership with the York University Centre for Public Policy and the Law. Community and advocacy groups joined academics, lawyers and policy makers to discuss what competing human rights claims look like and how they may be handled to maximize the human rights of all involved.

The Dialogue papers are being printed for distribution in the coming year. The OHRC will use the ideas generated at the Policy Dialogue to help develop policy that is consistent with case law and accepted best practices, on ways to address competing claims.

Adjusting our policies

OHRC policies are widely used by people responsible for applying the *Code*, such as lawyers, unions and human resource managers. They are useful because they respond to day-to-day human rights issues. They are also an important resource for individuals and their counsel seeking to enforce their rights under the *Code*. The OHRC applies its policies in all our work – education, outreach and partnership initiatives, public inquiries and legal interventions.

As part of its transition to a new mandate, the OHRC reviewed its entire library of policies. In an exercise completed in December 2009, staff reviewed the policies for inconsistencies with the new *Code*, and revised them to make sure they will continue to play a valuable role in Ontario's human rights system.

One example of the type of changes made is a revised procedure for making a human rights complaint (now called an application). In the past, these were made to the OHRC, and the policies have been updated to show that people now go directly to the Tribunal or through the Human Rights Legal Support Centre.

OHRC policies and guidelines are important because they set standards for how individuals, employers, housing providers, service providers and policy makers should act to comply with the *Code*. While they are not binding on the Ontario Human Rights Tribunal or on courts, they are given great deference, and are often applied to the facts of the case before the court or tribunal, and are quoted in their decisions. If a party asks the Tribunal to consider a policy, it must do so.

The OHRC continues to refine and update its policies to reflect new and emerging issues and legal decisions, and advances in human rights. The most recent versions are always available on our website. You will also find many plain language brochures, interactive e-learning modules and other tools to help apply the policies to everyday life.

Mobilizing municipalities to address racism and discrimination

When incidents of racism or discrimination happen in communities, the entire community is harmed. To minimize this harm, it is important that any response be quick and close to the place where it happened. People bringing this harm tend to think twice when they hear from their local mayor, their local police officer or their next-door neighbour that this behaviour is not welcome and will not be tolerated.

This is the kind of mobilization that can step beyond incidents that have already happened and prevent such incidents from happening in the future. The OHRC is working to educate and empower communities so they can take this kind of coordinated action.

For example, we teamed with the City of Vaughan and the Canadian Race Relations Foundation (CRRF) to present an important forum focused on "Mobilizing Municipalities to Address Racism and Discrimination." Through this partnership, municipal officials, community representatives, universities and the non-profit sector worked together to create a "best-practice" manual for municipalities to confront racism

and discrimination. This manual is linked to the UNESCO initiative to create a wider Canadian Coalition of Municipalities Against Racism and Discrimination (CCMARD).

The forum offered a platform to consider the opportunities and challenges municipalities face in making their communities inclusive and welcoming to all people. "As our society continues to change, Canadian municipalities have a leading role to play in promoting a strategy of inclusiveness where all members can live in harmony and diversity," said Ayman Al-Yassini, Executive Director of the CRRF.

Blending policing and human rights – the Toronto Police Charter Project

The balance between human rights and public security is sometimes difficult to achieve. For many years the OHRC had an adversarial relationship with various police services in the province, dealing with complaints on a case-by-case basis. We found that we were not getting to systemic solutions, especially around racial profiling and other concerns about bias.

Over the past three years, the OHRC has been involved in an innovative project to embed human rights into the day-to-day culture of the Toronto Police Service. The Toronto Police Charter Project brought together the OHRC, the Toronto Police Services Board and the Toronto Police Service. The Charter partners developed a comprehensive program to bring a human rights focus to all facets of policing in Toronto.

This project was bold and, potentially, risky for everyone involved. It required each partner to recognize the real limitations of the "old" system and to change basic attitudes and processes. Police officers and leaders in Toronto had to look at and talk about areas that are controversial, such as racial profiling, and take steps that were different from "the old way of doing things." The OHRC needed to step aside from confrontational approaches, despite the concerns of some stakeholders.

Today, the three partners have learned to share information and expertise and to see where changes need to be made. Concerns about a "culture clash" between the organizations have faded as we have learned about each other. Through research, analysis, dialogue and consensus there has been real progress in four key areas: recruitment, selection, promotion and retention; police learning; accountability; and public education. There have been disagreements – for example, on the use of data collection – but there is a commitment to work through unresolved issues.

2010 marks the end of the formal Project Charter but a close relationship will continue. The Toronto Police Services Board is to finalize an internal policy on human rights to guide the police in the future. As well, a new Human Rights Advisory Committee includes two members from each of the sponsoring partners and will continue the momentum of the Project Charter. The committee will maintain and monitor all Project Charter strategies, and provide advice and support to other organizations involved in similar work. The advisory committee will support Ryerson University, which has the task of assessing the success of the Project Charter. Preliminary results will be released later this year, while a report by 2014 will gauge longer-term results and suggest how the Project Charter's work will be sustained.

The success of the Charter has wider implications. The lessons learned in this process will be used to develop a road map for systemic change in other police services and other sectors. Willing partners, committed to human rights, can bring real change to major organizations. In coming months similar projects will be established.

Moving forward on mental health

One in five people is likely to experience mental illness at some point in their life – and this does not include friends or relatives or co-workers who can also be affected. Despite this, mental illness is a "hidden" disability. In workplaces, housing or services, where the need to accommodate people with physical disabilities is understood, there is often reluctance or even refusal to accommodate people with mental health disabilities.

There is growing awareness of the need to respond to mental health issues in an effective and coordinated way. Some of our work in this area was prompted by the Human Rights Tribunal of Ontario's decision in a case argued by the Commission – *Lane v. ADGA Group Consultants Inc.* of Ottawa. That case, later upheld by the Divisional Court, reaffirmed that employees with mental health disabilities have a right to accommodation of their needs under Ontario's *Human Rights Code*.

The OHRC is working with others to identify priorities and raise awareness. Finding out "who is doing what" is an important step. With our legal resources and public inquiries mandate we can contribute in those areas. But we have also been told that guidance on how to apply the *Human Rights Code* in the area of mental health would be helpful.

In the summer of 2009, we began to seek public input on a Human Rights Mental Health Plan, which will include steps to address systemic human rights concerns. Initial consultations included consumer survivor groups, and individuals and organizations in the mental health field. A report on those conversations was created to gather public feedback on key issues that pose human rights concerns for people with mental health disabilities and addictions.

A draft plan was submitted for Commission approval in April 2010. More details will be added as we continue to work in this area, but the plan will include:

- Creating a policy on mental health
- Monitoring Tribunal applications for possible interventions and legal action
- Doing public education
- Proceeding with public interest inquiries
- Setting up partnerships with other organizations working in the mental health/addictions field.

Expanding mental health horizons

While developing a Mental Health Plan, we spent time in the past year building partnerships and adding our voice to key mental health issues and activities across Ontario. For example, we:

- Took our views on human rights and mental health to two provincial consultations – the Ministry of Health and Long-Term Care's (MOHLTC) Mental Health Strategy, and the Select Committee on Mental Health and Addictions
- Spoke with MOHLTC Anti-Stigma/ Anti-Discrimination Advisory Committee
- Developed a partnership with the Mental Health Commission of Canada
- Made presentations about mental health and addiction issues in a variety of locations, including the University of Windsor, Canadian Mental Health Association (Windsor), Canadian Mental Health Association (Toronto), Salvation Army P.U.S.H. Program and Mad Pride Week (Toronto)

- Published an Interim Guide on Police Record Checks for Vulnerable Sector Screening following a settlement with the Toronto Police Services Board; we also raised issues about the release of mental health contact information with the Ontario Police Records Check Coalition – a group that includes the Centre for Mental Health and Addiction, Community & Legal Aid Services Programme, Ontario Association of Patient Councils, and the Psychiatric Patient Advocate Office
- Held discussions with the Mental Health Commission of Canada and the Ontario Association of Chiefs of Police on guidelines for record checks; wrote to the Attorney General with related concerns around police record checks on potential jurors.

Looking at Ontario's laws

One of the OHRC's key roles is to create or change systems to remove the potential for discrimination before it happens. A good way to do this is to see that laws are created or changed with human rights in mind. In the past year, the OHRC has advocated for changes in laws covering topics ranging from workplace safety to helping Ontarians to vote.

Bill 231, Election Statute Law Amendment Act:

In a presentation to the Standing Committee on the Legislative Assembly, the OHRC praised the government for introducing provisions to improve the accessibility of our electoral system for voters with disabilities. We supported the use of special ballots by mail, mobile polls for voting in institutions, home visits, and the study of other accessible methods.

Amendments to the Bill reflected the OHRC's call for all polling stations to be set up in accessible locations and elections material to be made available in electronic and other accessible formats.

Other concerns, however, remain outstanding. We called for provisions for accessible electoral processes for candidates with disabilities, such as requiring accessible locations for campaign offices, nomination and campaign meetings, debates and related events, along with accessible campaign material. And the bill does not address disadvantages and potential expenses that some candidates may face, either to meet their own disability-related needs or to make their events accessible. We recommended that expenses such as sign-language interpreting be exempted from contribution or spending limits.

Voters and candidates with disabilities have a right to participate fully in the political process. We all have the obligation to make it happen. Laws and procedures are changing at all levels of government, and the OHRC will continue to monitor this in the municipal elections in 2010 and provincial vote in 2011.

Bill 168, an Act to amend the Occupational Health and Safety Act:

In a presentation to the Standing Committee on Social Policy, the OHRC spoke in support of *Bill 168*. The legislation calls for new requirements for employers to develop, implement and annually review policies and programs to deal with harassment and violence in the workplace. Workplace harassment continues to be the subject of many human rights applications at the Human Rights Tribunal of Ontario.

The OHRC recommended that the law be expanded beyond acts of harassment and violence to include discrimination and psychological or emotional harm which can often lead to "physical force." Other comments focused on the role of health and safety inspectors, the duty of employers to address harassment and violence, designating workplace coordinators so workers know where to go with a problem, and improving public information and monitoring.

Bringing harassment and violence under the protection of occupational health and safety legislation helps to make a better connection between employment and human rights law. It also helps to make people aware that workplaces must be free of discrimination and harassment and safe places for everyone.

Adding our voice on the *AODA*

For the past year, the OHRC has been busy reviewing and commenting on areas where standards are being developed under the *Accessibility for Ontarians with Disabilities Act (AODA)*.

Disability continues to be one of the most cited grounds in discrimination complaints so this will continue to be a priority. People continue to face issues like getting a ramp so they can enter their apartment building, or being put on the end of the list in hospital emergency rooms because they have a mental health issue.

The OHRC thanked the development committees for the work on the new standards to date, and suggested options for improving the standards. Most of the suggestions reflect the OHRC's view that these standards should be the floor, not a ceiling, for making Ontario accessible. Here are some highlights of our comments.

Proposed Accessible Built Environment Standard:

The OHRC recommended that the standard set out human rights principles to help organizations interpret the standards in accordance with the *Code*. Key points included:

- Recognizing that even if the standard sets a longer timeline, organizations still have an immediate and ongoing duty to accommodate individual requests, as much and as soon as possible, up to the point of undue hardship
- The duty to accommodate applies regardless of an organization's size, and may require alternative or interim solutions depending on the circumstances
- The lack of harmony between the standard, the *Building Code* and the *Human Rights Code*, and requesting public consultation to harmonize them
- The Government's role in providing resources and education, and monitoring compliance and impact to ensure the standard's success
- Exemptions, especially relating to undue hardship for new construction, are serious concerns
- The first version of the standard should have provisions for retrofit and single family housing accessibility.

The OHRC also has concerns about other elements, including: the broader benefit of universal washrooms, captioning and descriptive video requirements for movie theatres that fall below the standards coming out of recent human rights decisions, and the lack of any retrofit requirements for restaurants.

Proposed Employment Accessibility Standard

The Employment Accessibility Standard will require employment policies, procedures and training to help employers take an accessible approach to recruiting, hiring, retaining and accommodating people with disabilities. In its submission to the committee working on this, the OHRC made many recommendations to enhance the standard, including:

- Adding key human rights principles, such as to design inclusively, create no new barriers, remove existing barriers, choose integration over segregation, provide interim accommodation when needed, and work with the person asking for accommodation in a way that promotes dignity and respect
- Expanding beyond paid employees to include volunteers, family members and other people who work without a salary to gain experience, such as someone on a student placement
- Having employers add accommodation procedures to accessible employment policies
- Clearly stating that when an accommodation is requested, employers have a duty to accommodate under the *Code* now, even though the Standard may only require system-wide accessibility at the end of a number of years. This includes when deciding essential job duties and offering application materials in alternate formats
- In terms of return to work processes, advising all employers that they have a duty to accommodate a disabled employee's needs upon request, short of undue hardship, regardless of whether their disability was a result of a workplace injury.

AODA Statutory Review

The OHRC met with Charles Beer, who was appointed by the Government to lead the first statutory review of the *AODA*. We identified human rights principles that are core to developing standards, and called for a strong system to help implement and monitor compliance with each of the Standards. The OHRC also took part at public meetings and made a submission as part of the review process.

Our goal is to have the AODA standards make Ontario a truly accessible place for all who live here.

Taking transit to the Tribunal

In July 2009, the OHRC filed applications at the Human Rights Tribunal of Ontario against Hamilton, Sudbury and Thunder Bay transit providers, on behalf of transit riders with vision disabilities. We took this action because providers were not meeting their commitment to call out all stops for transit passengers. This meant that for people with visual disabilities, the simple act of taking a bus to work, to school or to meet friends instead became a barrier.

This was the next step in an ongoing effort to have transit providers across Ontario call out all stops, following the July 2007 Tribunal decision in *Lepofsky v. Toronto Transit Commission*. In this decision, the Tribunal ordered the TTC to announce all stops on buses and streetcars that summer. Shortly after this, the OHRC contacted public transit authorities across the province, to make sure they were aware of their obligations under Ontario's *Human Rights Code*, OHRC policy and recent human rights case law.

In 2008, all 38 public transit providers in Ontario told us that plans to call all stops on all routes were well underway, and that the service would be in place by the end of the year. However, this year, we learned that several transit providers were not meeting their commitments.

The OHRC's application asks the Tribunal to order Hamilton, Sudbury and Thunder Bay transit providers to begin calling all stops on all routes within 30 days. The OHRC also wants those transit providers to train their staff on the importance of making transit accessible, and to monitor progress and report publicly on measures they have taken.

These applications are currently in the mediation stage with the Tribunal, and the OHRC is continuing to monitor other transit providers to make sure that accessible transit is a reality for riders with vision disabilities across Ontario.

Searching for special diet solutions

Over the past two years, hundreds of human rights complaints were made that the Special Diet Allowance for people on Ontario Works Assistance or the Ontario Disability Support Program was discriminatory because it excluded some disabilities and allowed not enough money for others. To deal with this large volume of cases, the Tribunal decided to hear three "lead" cases and to apply the lessons learned to the other cases.

In its decision in February 2010, the Tribunal found that the program discriminated against the complainants by excluding certain medical conditions and providing relatively unequal amounts for other conditions.

The Tribunal found that "W" was discriminated against because the government did not provide funding for hypoproteinemia, and that funding was inadequate for high blood pressure/cholesterol diets. "S" was discriminated against by not getting enough funding for an obesity diet, and "B" did not receive enough funding for a diet to battle high cholesterol.

The Tribunal ordered retroactive benefits for the three complainants from the date that they would have been eligible for them if the discrimination had not happened. The Tribunal also ordered the government to provide special diet benefits for people with hypoproteinemia, hyperlipidemia, hypertension and obesity within three months of the decision.

This decision is facing a court challenge, and the Province has proposed to eliminate the program and begin a new one through the Ministry of Health and Long-Term Care. In the meantime, the OHRC and various partners continue to negotiate with the Province to move forward with the other special diet cases.

Saying no to racial profiling

The OHRC's work on racism and racial profiling has been a driving force in its partnership with the Toronto Police Services Board on the Toronto Police Charter Project.

The OHRC also intervened at the Tribunal in a complaint by Ron Phipps – a case which raised some tough issues. The Tribunal ruled Phipps had been subjected to racial profiling in 2005 by a Toronto police officer. The officer stopped Phipps when he was delivering mail in an affluent Toronto neighbourhood, checked with a homeowner Phipps spoke to, trailed him and checked his identity with a White letter carrier.

The Tribunal said that although there was no overt racism, racial profiling had occurred. Although this incident happened five years ago, it serves as an important reminder that racial profiling exists and is not acceptable in policing or security. It confirms that racial profiling can be a systemic act that people are not even aware they may be doing, showing the challenges out there for those with a mandate to eliminate it.

Accommodating religious beliefs and practices

In 2009, the Superior Court of Ontario granted the OHRC's request to intervene in a judicial review application of a woman who was ordered to remove her niqab when testifying at a preliminary hearing in a sexual assault case.

This case involves a possible conflict between the right to religious freedom and a defendant's right, under the *Charter of Rights and Freedoms*, to "full answer and defence" of the charges against them. The OHRC argued that the lower court did not follow the proper process for considering the religious rights of the witness, and did not properly assess what "full answer and defence" really means in this case.

When the matter went to the Court of Appeal for Ontario, the OHRC was again granted leave to intervene.

The OHRC believes that women who wear the niqab should not be denied equal participation in society through restrictive decisions and policies. We also believe that forcing people to choose between their religious or cultural identity and access to the justice system is discriminatory and against human rights principles.

In issues involving people from many faiths, we have been concerned that a basic principle of accommodation – providing an alternative – has not been applied.

In another example involving religious head coverings, the OHRC intervened in the case of *Stanley v. Toronto Police Service*. Ms. Stanley, a Muslim, wears a hijab. In an application to the HRTO she alleged that in 2008, while being questioned by Toronto police officers about the actions of some youth in the neighbourhood, she was handcuffed and her hijab was forcibly removed from her head. While in custody at the police station, she also was viewed by male officers without her religious head covering. Ms. Stanley was later released by police.

The OHRC is currently working to resolve this complaint. This resolution includes having the Toronto Police Service review and revise its Search of Persons Guidelines, to make sure they are consistent with the duty to accommodate religious observances under the *Code*.

Using technology to teach

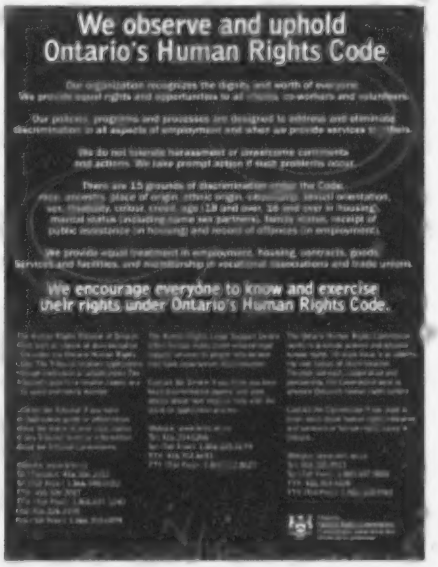
To meet the challenge of communicating with audiences across Ontario in a consistent, affordable way, the OHRC is creating new electronic tools for people to both learn about human rights and share what they have learned. The centre piece of this work is the OHRC website, www.ohrc.on.ca.

The site offers a wealth of information on human rights in Ontario, includes regular updates on the work of the OHRC, and offers options for people to sign on as partners in advancing human rights.

For example, newly revised posters about the Ontario *Human Rights Code* – also known as "*Code* cards" – are now available for download. Employers and organizations are invited to print and post them to let clients, co-workers and volunteers know that their organization supports human rights for all Ontarians.

Another example is an invitation to download three posters that direct people to the OHRC's website, which contains critical information on human rights in housing that tenants, housing providers and landlords need to know.

Next up is "Human Rights 101," the first in a series of e-learning modules offering a plain-language introduction to the Ontario *Human Rights Code* and to the human rights system in Ontario. Developed in partnership with students from New Media Studies at the University of Toronto, Scarborough Campus, this module is scheduled for launch in late spring 2010. The next module in the series, human rights and housing, will be launched later in 2010.


We observe and uphold
Ontario's Human Rights Code
We encourage everyone to know and exercise
their rights under Ontario's Human Rights Code.

Educating everywhere

Over the past year, the Chief Commissioner has travelled to many parts of Ontario and made presentations to a wide variety of audiences, such as:

- Canadian Safe School Network
- Registered Nurses Association of Ontario
- Down Syndrome Association of Peterborough
- Ontario Multi-Faith Council
- Town and Gown Association of Ontario
- Recreation Able Forum, Thunder Bay.

At the same time, Commission staff delivered extensive training on such issues as anti-racism and discrimination, the *Human Rights Code*, human rights and housing, and creed issues.

Training was also an important part of our internal activities. For example, in May 2009 we partnered with community members to design and deliver 1½ days of training to all OHRC staff and Commissioners on understanding sexual orientation and gender identity. Also, staff volunteered with the OPS (Ontario Public Service) Pride Network to deliver its "Let's Start With Words" training on appropriate LGBT terminology and workplace issues, and contributed to develop its new Positive Space program.

Connecting with the media

The media plays a powerful role in educating and shaping the public's perception on human rights issues. That is why over the past year, the OHRC served as a regular voice offering a human rights-based perspective. Guest editorials and letters to the editor covered topics such as:

- Mental health and human rights
- Canada's ratification of the U.N. Convention on the Rights of Persons with Disabilities
- Keswick High School students' response to a race-based incident at their school
- APTN for coverage of the Winter Olympics in variety of Aboriginal languages.

Moving beyond the numbers

On June 30, 2008, the role of the OHRC in dealing with individual human rights complaints changed. As of that date, all new human rights applications were filed directly with the Human Rights Tribunal of Ontario (HRTO). During the transition phase, the OHRC continued to work on the cases already within its system. By the end of the 2009/2010 fiscal year, the OHRC remains involved in 45-50 of these cases.

On an ongoing basis, the OHRC will continue to monitor cases, to identify opportunities to intervene in issues of broad systemic or public interest at the HRTO, in the courts and in other tribunals such as the Social Benefits Tribunal.

OHRC annual reports have traditionally included detailed charts offering totals of new complaints, monetary damages, disposition of cases, referrals and cases completed for each fiscal year. In Ontario's new human rights system, these areas are now covered by the Tribunal.

Financial position as at March 31, 2010 ($'000)

	2009-2010 Printed Estimates	One time Labour Adjustment Costs	Revised Budget March 31, 2010	Actual Expenditures March 31, 2010	2009-2010 Year End Variance from Revised Budget	
					$	%
Salaries and Wages	4,667.3	749.9	5,417.2	5,398.8	18.4	0.34%
Benefits	428.9	541.8	970.7	814.3	156.4	16.11%
Other Direct Operating Expenses (ODOE)	893.6	(45.9)	847.7	873.7	(26.0)	-3.07%
Total Expenses	5,989.8	1,245.8	7,235.6	7,086.8	148.8	2.06%

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Meet our Commissioners *(continued)*

Larry McDermott – Lanark – Appointed September 2009
A member of Shabot Obaadjiwan First Nation, Larry McDermott served as an Ontario municipal politician for 28 years including as the first national rural chair of the Federation of Canadian Municipalities. He is currently Executive Director of Plenty, a non-profit organization devoted to environmental protection and healthy communities.

Errol Mendes – Ottawa – Appointed September 2009
Errol Mendes is a lawyer, author, professor and has been an advisor to corporations, governments, civil society groups and the United Nations. His teaching, research and consulting interests include public and private sector governance, conflict resolution, constitutional law, international law and human rights law and policy.

Mark Nagler – Hamilton – Appointed September 2009
Mark Nagler, Professor Emeritus, taught sociology, race and ethnic relations, native studies and disability studies for 29 years at the University of Waterloo. A past president of ARCH, he has served on many volunteer boards and has advised the federal and provincial governments on a variety of aspects related to disability issues.

Fiona Sampson – Toronto – Appointed September 2009
Fiona Sampson is the Human Rights Director at Canadian Lawyers Abroad (CLA), where she is also the Director of the African and Canadian Women's Human Rights Project. Fiona has worked as a legal consultant with, among others, the Ontario Native Council on Justice, the DisAbled Women's Network (DAWN) of Canada, Education Wife Assault, and the Ethiopian Muslim Relief and Development Association.

Bhagat Taggar – Scarborough – Appointed May 2005
Bhagat Taggar is a Chartered (UK) and Professional (Ontario) Engineer with diverse international and Canadian community experience. He is the past chair of the Employment Insurance Board for the Ontario regional division (Scarborough) and a recipient of the Queen's Golden Jubilee Medal for community service.

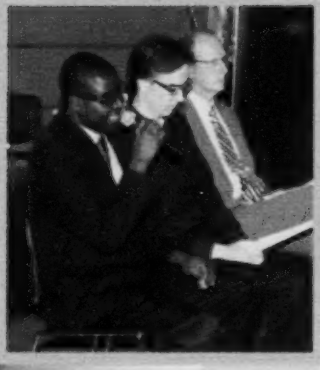
Maggie Wente – Toronto – Appointed October 2006
Maggie Wente is a lawyer with Olthius Kleer Townshend, representing First Nations and Band Councils. She has also worked with the Ontario Federation of Indian Friendship Centres and the University of Toronto Community Legal Clinic. Currently she is a Board member of the Aboriginal Legal Services of Toronto.

The OHRC also expresses its appreciation to the following Commissioners whose terms were completed on December 31, 2008:

Pierre Charron
Kamala Jean Gopie
Christine Rabier
Ghulam Sajan
Richard Théberge
Albert Wiggan

Empower

Act



Educate